

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, AUGUST 14, 2007

The Council of the City of San José convened in regular session at 9:30 a.m. in the Council Chambers at City Hall.

Present: Council Members - Campos, Chirco, Chu, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

Upon motion unanimously adopted, Council recessed at 9:31 a.m. to a Closed Session in Room W133, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) Sutter's Place, Inc. dba Bay 101, et al. v. City of San José and Related Cases. (B) to confer with Legal Counsel pursuant to: Government Code Section 54956.9 with respect to anticipated litigation, subsection (c) with initiation of litigation in one (1) matter. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6: City Negotiator: City Manager designee Alex Gurza; Employee Organizations: (1) Association of Maintenance Supervisory Personnel Agreement (AMSP); (2) Association of Engineers and Architects (AEA), IFPTE, Local 21, Units 041 and 042; (3) Association of Engineers and Architects (AEA), Local 21, Unit 043; (4) Association of Building, Mechanical and Electrical Inspectors (ABMEI); (5) Confidential Employees' Organization (CEO), AFSCME, Local 101; (6) International Brotherhood of Electrical Workers (IBEW), Local 332; (7) International Union of Operating Engineers, Local No. 3 (OE#3); (8) Municipal Employees' Federation (MEF), AFSCME, Local 101; (9) International Association of Firefighters (IAFF); (10) San José Police Officers' Association; (11) City Association of Management Personnel Agreement (CAMP).

By unanimous consent, Council recessed from the Closed Session at 11:05 a.m. and reconvened at 1:33 p.m. in the Council Chambers.

Present: Council Members - Campos, Chirco, Chu, Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

INVOCATION

Far East Lion Dancers presented the Invocation. (District 7)

PLEDGE OF ALLEGIANCE

Mayor Reed led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the Orders of the Day and the Amended Agenda were approved, Items 2.1(g)-(o) and Item 2.3 were deferred to August 21, 2007 and Item 3.16 was deferred to August 28, 2007. (11-0.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to Kary Houle for her outstanding commitment to educating the community and promoting Guadalupe River Park & Gardens. (Liccardo)

Action: Mayor Reed and Council Member Liccardo recognized and commended Ms. Kary Houle for her exceptional contributions to the City of San José.

1.2 Presentation of commendations to Bob Mayo and Mark Snestrud for cracking the semaphore code on top of the Adobe building. (Liccardo)

Action: Mayor Reed and Council Member Liccardo recognized and commended Mr. Bob Mayo and Mr. Mark Snestrud for their special achievement of cracking the semaphore code.

1.3 Proclamation declaring August 12 - August 18, 2007 as Tainan, Taiwan week in the City of San José. (Mayor/Chu/Campos)

Action: Mayor Reed and Council Members Chu and Campos recognized August 12 through August 18, 2007 as “Tainan, Taiwan Week” in the City of San José.

1.5 Presentation of a proclamation declaring August 12 -August 18, 2007 as Gymnastics Week in San José. (Mayor/Constant)

Action: Mayor Reed recognized August 12 through August 18, 2007 as “Gymnastics Week” in the City of San José.

1.6 Presentation of a proclamation declaring September 29, 2007 as the “Day of Play” in San José. (Mayor/Pyle)

Action: Mayor Reed and Council Member Pyle recognized September 29, 2007 as the “Day of Play” in the City of San José.

1.7 Presentation of a commendation to San José’s Syndicate of Sound for their achievement of the 1 millionth playing of the song “Little Girl.” (Mayor)

Action: Mayor Reed recognized and commended the local San José band “Syndicate of Sound” for their achievements.

CONSENT CALENDAR

Upon motion by Council Member Pyle, seconded by Council Member Campos, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

2.1 Approval of Minutes.

- (a) **Regular Minutes of April 3, 2007**
- (b) **Regular Minutes of April 10, 2007**
- (c) **Regular Minutes of April 17, 2007**
- (d) **Joint City Council/Santa Clara Valley Water District Study Session Minutes on Water Quality Issues of April 20, 2007**
- (e) **Regular Minutes of April 24, 2007**
- (f) **Council Study Session Minutes on Evergreen East Hills Vision Strategy of April 30, 2007**

Documents Filed: (1) The Regular Minutes dated April 3, 2007, April 10, 2007, April 17, 2007 and April 24, 2007. (2) The Joint City Council/Santa Clara Valley Water District Study Session Minutes on Water Quality Issues dated April 20, 2007. (3) The Evergreen East Hills Vision Strategy Study Session Minutes dated April 30, 2007.

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos, and carried unanimously, the Minutes were approved. (10-0-1. Disqualified: Chu.)

- (g) **Regular Minutes of May 1, 2007**
 - (h) **Council Study Session Minutes on the General Plan Update of May 3, 2007**
 - (i) **Regular Minutes of May 8, 2007**
 - (j) **Regular Minutes of May 15, 2007**
 - (k) **Regular Minutes of May 22, 2007**
 - (l) **2007-2008 Operating and Capital Budget; 2008-2012 Capital Improvement Program Study Session Minutes of May 7, 2007 through May 17, 2007**
 - (m) **Minutes of the San José Financing Authority of May 22, 2007**
 - (n) **Special Closed Session Minutes of May 29, 2007**
 - (o) **Special Closed Session Minutes of May 30, 2007**
- [Deferred from 6/26/07 – Item 2.1 and 8/7/07 – Item 2.1]**

2.1 (Cont'd.)

Action: Deferred to August 21, 2007 per City Clerk under Orders of the Day.

- 2.3**
- (a) Approval of an agreement with Fernanda D'Agostino to fabricate and install artwork for the Mayfair Community Center in a total amount not to exceed \$195,400.**
 - (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Parks and Recreation Bond Projects Fund (Fund 471):**
 - (1) Increase appropriation to the Office of Economic Development for the Public Art-Park and Recreation Bond Projects by \$141,000.**
 - (2) Increase the Beginning Fund Balance estimate by \$141,000.**
 - (c) Adoption of the following Appropriation Ordinance and Funding Sources Resolution amendments in the Services for Redevelopment Capital Projects Fund (Fund 450):**
 - (1) Increase the appropriation to the Department of Public Works for the Mayfair Community Center Project by \$64,000;**
 - (2) Increase the Beginning Fund Balance estimate by \$64,000.**
 - (d) Adoption of the following Appropriation Ordinance amendments in the Subdivision Park Trust Fund (Fund 375):**
 - (1) Establish an appropriation to the Office of Economic Development in the amount of \$10,000 for the Mayfair Community Center Public Art Project;**
 - (2) Decrease the appropriation to the Office of Economic Development for the Plata Arroyo Skate Park Development Public Art Project by \$8,000; and**
 - (3) Decrease the appropriation to the Office of Economic Development for the Children of the Rainbow Park Renovation Public Art Project by \$2,000.**

CEQA: Exempt, File No. PP05-184. (City Manager's Office/Economic Development)

(Deferred from 8/7/07 – Item 2.4)

Action: Deferred to August 21, 2007 per Orders of the Day.

- 2.4 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Thomas Sayre to fabricate and install artwork for the South San José Police Substation, in a total amount not to exceed \$340,000. CEQA: Exempt, File No. PP05-184. (Economic Development)**

Documents Filed: Memorandum from Chief Development Officer Paul Krutko, dated July 23, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73939](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Thomas Sayre for a Work of Art for the South San José Police Substation in an Amount Not To Exceed \$340,000", was adopted. (11-0.)

- 2.5 Adoption of a resolution authorizing the City Manager to execute an agreement to accept easements from San José State University to the City for maintenance of recycled water service connections and meter vaults serving the Dr. Martin Luther King, Jr. Library and landscape irrigation of the University property at no cost to the City. CEQA: Resolution No. 64667, File No. PP03-350. Council District 3. SNI: University. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated July 23, 2007, recommending adoption of a resolution. (2) Letter from the Treatment Plant Advisory Committee, dated August 9, 2007, stating concurrence with the Staff recommendation.

Action: [Resolution No. 73940](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute Acceptance of an Easement Agreement for Recycled Water Service Connections and Meter Vaults State from the Trustees of the California State University", was adopted. (11-0.)

- 2.6 Approval of Contract Change Order No. 3 for a contract time extension of 280 calendar days with Anderson Pacific Construction, Inc., for the South Bay Water Recycling Program, SJ-14 Pump Stations 5 & 8/11 Reliability Project, at no additional cost to the City. CEQA: Exempt, File Nos. SP04-054 and PD04-068. Council Districts 3 and 8. SNI: Spartan/ Keyes. (Environmental Services)**

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated July 23, 2007, recommending approval of a contract time extension. (2) Letter from the Treatment Plant Advisory Committee, dated August 9, 2007, stating concurrence with the Staff recommendation.

Action: The contract Change Order No. 3 for a contract time extension of 280 calendar days with Anderson Pacific Construction, Inc., for the South Bay Water Recycling Program, SJ-14 Pump Stations 5 & 8/11 Reliability Project, at no additional cost to the City was approved. (11-0.)

- 2.7 (a) Approval of an ordinance repealing Ordinance No. 27743 to terminate the Commercial Solid Waste and Recyclables Collection Franchise with Redwood Services, Inc. dba Redwood Debris Box Service.**
(b) Adoption of a resolution authorizing the Director of the Environmental Services Department to send a notice to Redwood Services, Inc. terminating the Commercial Solid Waste and Recyclables Collection Franchise Agreement effective June 1, 2007.

CEQA: Negative Declaration, File No. PP92-11-308. (Environmental Services)

Documents Filed: Memorandum from Director of Environmental Services John Stufflebean, dated July 23, 2007, recommending approval of an ordinance and adoption of a resolution.

2.7 (Cont'd.)

Action: [Ordinance No. 28090](#), entitled: “An Ordinance of the City of San José Repealing Ordinance No. 27743 to Terminate the Commercial Solid Waste and Recyclables Collection Franchise Previously Granted to Redwood Services, Inc. dba Redwood Debris Box Service”, was passed for publication and [Resolution No.73941](#), entitled: “A Resolution of the Council of the City of San José Authorizing the Director of Environmental Services to Send a Notice to Redwood Services, Inc. dba Redwood Debris Box Service Terminating the Commercial Solid Waste and Recyclables Collection Franchise”, was adopted. (11-0.)

2.8 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a second amendment to the agreement with the Viet Heritage Society for the development, maintenance and operations of the Vietnamese Heritage Garden to:

(1) Increase the City’s contribution toward the project by \$320,000, from \$1,410,000 to \$1,730,000.

(2) Document the additional funding and terms of use of such funds.

(b) Adoption of the following Appropriation Ordinance amendments in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District #5 (Fund 382):

(1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department in the amount of \$150,000 for the Vietnamese Cultural Heritage Garden; and

(2) Decrease the Reserve: Vietnamese Heritage Garden by \$150,000.

CEQA: Resolution No. 66098 and addendum thereto, File No. PP04-228. Council District 7. SNI: Tully/Senter. (Parks, Recreations and Neighborhood Services/City Manager’s Office)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso and Acting Budget Director Jennifer Maguire, dated July 23, 2007, recommending adoption of a resolution and appropriation ordinance amendments.

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen, and carried unanimously, [Resolution No. 73942](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Second Amendment to the Agreement with the Viet Heritage Society Relating to the Vietnamese Heritage Garden, in an Additional Amount Not To Exceed \$320,000 and a Total Amount Not To Exceed \$1,410,000” and [Ordinance No. 28091](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Construction Tax and Property Conveyance Tax Fund: Parks Purposes Council District No. 5 for the Vietnamese Cultural Heritage Garden; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted. (11-0.)

- 2.9 (a) Adoption of a resolution:**
- (1) Authorizing the Director of Parks, Recreation and Neighborhood Services to negotiate and execute all contracts and amendments in 2007-2008 related to the provision of after school programs funded with up to \$963,969 paid by Alum Rock Union, Berryessa, San José Unified, and Santa Clara Unified School Districts.**
 - (2) Authorizing the Director of Parks, Recreation and Neighborhood Services to amend these agreements in excess of the amount identified in the memo if the Director determines that the City is able to provide the services and comply with any additional requirements associated with the increased grant funds.**
- (b) Adoption of the following Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund:**
- (1) Increase the estimate for Revenue from Local Agencies by \$963,969; and**
 - (2) Establish an appropriation to PRNS in City-Wide Expenses for San José After School - District Contracts in the amount of \$963,969.**
- CEQA: Not a Project. Council Districts 3, 4, 5 and 7. SNI: 13th Street/Five Wounds/ Brookwood Terrace. (Parks, Recreation and Neighborhood Services/City Manager's Office)**

Action: Item 2.9 was dropped.

- 2.10 Approval of the master plan for the new Nisich Park. CEQA: Exempt, File No. PP06-164. Council District 7. SNI: Tully/Senter. (Parks, Recreation and Neighborhood Services)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated July 23, 2007, recommending approval of the master plan.

Action: The master plan for the new Nisich Park was approved. (11-0.)

- 2.11 Acceptance of Planning Staff's approach for City Staff to coordinate with other agencies to identify candidate areas, after completion of the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan, for Council to consider for future application to Association of Bay Area Governments/ Metropolitan Transportation Commission's Focusing Our Vision (FOCUS) Program to designate regional Priority Conservation Areas. CEQA: Resolution No. 65459. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated July 23, 2007, recommending acceptance of Planning Staff's approach.

2.11 (Cont'd.)

Action: Planning Staff's approach for City Staff to coordinate with other agencies to identify candidate areas, after completion of the Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan, for Council to consider for future application to Association of Bay Area Governments/Metropolitan Transportation Commission's Focusing Our Vision Program to designate regional Priority Conservation Areas was approved. (11-0.)

- 2.12 (a) **Adoption of a resolution to initiate proceedings to consider the single family house located at 754 S. Third Street as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.**
- (b) **Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation.**
- (c) **Adoption of a resolution setting a public hearing on Tuesday, September 25, 2007 at 1:30 p.m. for Council consideration of City Landmark designation of the structures.**

CEQA: Exempt, File No. HL07-159. Council District 3. SNI: Spartan-Keyes. (Planning, Building and Code Enforcement)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated July 23, 2007, recommending adoption of a resolution and setting a public hearing. (2) Affidavit of Routing executed on August 22, 2007, and distributed by the City Clerk.

Action: [Resolution No. 73943](#), entitled: "A Resolution of the Council of the City of San José Initiating Proceedings on Its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, To Designate the Brownlee House Located at 754 South Third Street, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature", was adopted, and the matter was referred back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation. (11-0.)

- 2.13 (a) **Adoption of a resolution to initiate proceedings to consider the single family homes at the following addresses, 328 N. Sixth Street (HL07-160), 336 N. Sixth Street (HL07-161) and 483 N. Fifth Street (HL07-162) as landmarks of special historic, architectural, cultural, aesthetic or engineering interest or value of a historic nature.**
- (b) **Refer the matter back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation.**
- (c) **Adoption of a resolution setting a public hearing on Tuesday, September 25, 2007 at 1:30 p.m. for Council consideration of City Landmark designation of the structures.**

CEQA: Exempt, File Nos. HL07-160, HL07-161 and HL07-162. Council District 3. SNI: 13th Street. (Planning, Building and Code Enforcement)

2.13 (Cont'd.)

Documents Filed: (1) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated July 23, 2007, recommending adoption of a resolution and setting a public hearing. (2) Affidavit of Routing executed on August 22, 2007, and distributed by the City Clerk.

Action: [Resolution No. 73944](#), entitled: "A Resolution of the Council of the City of San José Initiating Proceedings on Its Own Motion, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, To Designate the Henry and Florence Reed House, the Herrington House and the Haydock House, as a City Landmark of Special Historical, Architectural, Cultural, Aesthetic or Engineering Interest or Value of an Historic Nature" adopted, and the matter was referred back to the Historic Landmarks Commission for its consideration at a public hearing, report and recommendation. (11-0.)

2.14 **Adoption of a resolution of intention to vacate a portion of Paula Street between Race Street and Meridian Way at 1024, 1044 and 1050 Paula Street with reservation of a public service easement over the area proposed for vacation, and setting a public hearing on September 11, 2007 at 1:30 p.m. CEQA: Exempt. Council District 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated July 23, 2007, recommending adoption of a resolution.

Council Member Oliverio pulled Item 2.14 for clarification.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Constant and carried unanimously, [Resolution No. 73945](#) was adopted. (11-0.)

2.15 **Adoption of a resolution of intention to vacate a portion of a Public Service Easement behind the right of way line of Tract 7502 along Samaritan Drive and Clydelle Avenue at 2039 Samaritan Drive and a portion of Sidewalk Easement behind the right of way line of Tract 7502 along Samaritan Drive and setting a public hearing on September 11, 2007 at 1:30 p.m. CEQA: Mitigated Negative Declaration, File No. PDC05-036. Council District 9. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated July 23, 2007, recommending adoption of a resolution.

Action: [Resolution No. 73946](#), entitled: "A Resolution of the Council of the City of San José Setting a Public Hearing to Consider Whether to Vacate Portions of a Public Service Easement Behind the Right of Way Line of Tract 7502 Along Samaritan drive and Clydelle Avenue and Portions of a Sidewalk Easement Behind the Right of Way Line of Tract 7502 Along Samaritan Drive", was adopted. (11-0.)

2.16 Approval of a fifth amendment to the lease with Hawg's Seafood Bar and Grill for space located at 150 Paseo de San Antonio to continue in effect a reduced rental rate from May 31, 2007 to the end of the term of the lease on May 31, 2010. CEQA: Not a Project. Council District 3. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated July 23, 2007, recommending approval of a fifth amendment to the lease.

Action: The fifth amendment to the lease with Hawg's Seafood Bar and Grill for space located at 150 Paseo de San Antonio to continue in effect a reduced rental rate from May 31, 2007 to the end of the term of the lease on May 31, 2010 was approved. (11-0.)

**2.17 Report on bids and award of contract for the North First Street Emergency Main Replacement to the low bidder, Stoloski & Gonzalez, Inc, in the amount of \$188,750 and approval of a contingency of \$38,000. CEQA: Exempt, File No. PP07-150. Council District 4. (Environmental Services)
(Rules Committee referral 8/8/07)**

Documents Filed: Memorandum from Director of Environmental Services John Stufflean, dated August 6, 2007, recommending award of the contract and explaining the urgent replacement of a section of broken water main.

Council Member Williams asked for clarification on the 20% contingency. Director of Environmental Services John Stufflean explained that approval of the \$38,000 contingency will provide funding for unseen conditions during the construction of the project.

Action: Council Member Williams and Council Member Oliverio Approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

**3.1 Report of the Rules and Open Government Committee – May 23, 2007
Mayor Reed, Chair**

Documents Filed: The Rules and Open Government Committee Report dated May 23, 2007.

- (a) City Council
 - (1) Review New Add Items to May 29, 2007 Agenda

None, Meeting Canceled.

3.1 Report of the Rules and Open Government Committee – May 23, 2007 (Cont'd.)
Mayor Reed, Chair

- (a) City Council (Cont'd.)
 - (2) Review June 5, 2007 Draft Agenda
 - (a) Add New Items to final agenda
 - (1) City Manager Compensation.
Heard By Council 6/5/07, Item 3.10.
 - (2) Elections Commission Recommendation to Change Special Eligibility Requirement that One Member of the Elections Commission Be an Attorney at Law.
Heard By Council 6/5/07, Item 3.6.
 - (3) Vietnamese Business District Designation.
Heard By Council 6/5/07, Item 9.1.

The Committee approved seven additions to the June 5, 2007 Draft City Council Agenda.

- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State. Attachments: Memoranda from Director of Housing Leslye Krutko, all four dated May 16, 2007, recommending support positions for items (a)-(d).
 - (a) AB 1252 (Caballero) – Housing Related Parks Program.
 - (b) AB 1460 (Saldana) – Multifamily Housing Program.
 - (c) SB 46 (Perata) – Proposition 1C Regional Planning, Housing, and Incentive Account.
 - (d) SB 586 (Dutton) – Proposition 1C Innovation Fund.

The Committee approved the Support Positions.
Heard By Council 6/5/07, Item 3.8.

- (2) Federal - There were none.
- (d) Meeting Schedules - There were none.
- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated May 18, 2007, transmitting items for the Public Record for the period of May 11-17, 2007.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees - There were none.

3.1 Report of the Rules and Open Government Committee – May 23, 2007 (Cont'd.)
Mayor Reed, Chair

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Council Expenditures and Reimbursement Policy. Attachment: Memorandum from City Clerk Lee Price, dated May 18, 2007, regarding background on the Council Expenditures and Reimbursement Policy.

The discussion was continued from June 5, 2007

- (2) Approve the revised Commission/Liaison Code of Conduct Policy. Attachment: Memorandum from City Attorney Richard Doyle, dated May 16, 2007, recommending approval of the conduct policy.

The Committee approved the revised Commission/Liaison Code of Conduct Policy. Heard by Council on June 19, 2007, Item 2.5.

- (3) Response to the Macias Consulting Group's Report on the Finance Department's Investment Unit and the Finance Department's Response. Attachment: Memorandum from City Auditor Gerald Silva, dated May 10, 2007, recommending approval of the response.

The Committee approved the Auditor's recommendation.

- (4) Discussion of Cost Neutral Opportunities for a Public Safety Memorial at New City Hall with Direction to Implement Memorial and Process for Accepting Private Sponsorship. Attachment: Memorandum from Council Members Constant and Pyle, dated May 22, 2007, regarding a Public Safety Memorial at City Hall.

Deferred to June 6, 2007.

(h) Review of Council Committee Agendas

(i) Open Government Initiatives

- (1) Reed Reforms
- (2) Sunshine Reform Task Force
- (3) Significant Public Records Act Requests
- (4) Council Policy Manual Update. Attachment: Memorandum from Deputy City Manager Deanna J. Santana, dated May 11, 2007, recommending validation of the policies.
 - (a) Approval to Validate Selected Policies Contained in the City Council Policy Manual.

The Committee agreed to move the policies forward to the full Council for approval. Heard by Council on June 19, 2007, Item 2.6 (a)-(c).

**3.1 Report of the Rules and Open Government Committee – May 23, 2007 (Cont'd.)
Mayor Reed, Chair**

(j) Open Forum - None were presented.

(k) Adjournment - The meeting was adjourned at 3:55 p.m.
(Deferred from 6/12/07 – Item 3.1, et al. and 8/7/07 – Item 3.1)

Action: Upon motion by Council Member Pyle, seconded by Council Member Nguyen and carried unanimously, the Rules and Open Government Committee Report and the actions of May 23, 2007, were accepted. (11-0.)

**3.2 Report of the Public Safety, Finance and Strategic Support Committee – June 21, 2007
Council Member Nguyen, Chair**

Documents Filed: The Public Safety, Finance and Strategic Support Committee dated June 21, 2007.

(a) Consent Calendar

(1) Quarterly Legislative Update. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated June 7, 2007, recommending acceptance of the legislative update.

The Committee accepted the Consent Calendar.

(b) Decisions on Performance Measurements and Reporting Procedures. Attachment: Memorandum from Chief Deputy City Manager Kay Winer, dated June 12, 2007, recommending acceptance of the report.

The Committee accepted the report.

(c) Public Safety Quarterly Report.

(1) Police Department. Attachment: Memorandum from Police Chief Robert Davis, dated June 5, 2007, recommending acceptance of the report.

The Committee accepted the report.

(2) Fire Department. Attachment: Memorandum from Fire Chief Darryl Von Raesfeld and Budget Director Larry Lisenbee, dated June 21, 2007, recommending acceptance of the report.

(a) Hiring Demographics.

(b) 2006-2007 Preliminary Report on Fire Department Vacancy and Absence Rates and their Impact on Overtime. (Fire)

The Committee accepted the report.

**3.2 Report of the Public Safety, Finance and Strategic Support Committee – June 21, 2007
Council Member Nguyen, Chair (Cont'd.)**

- (d) Monthly Financial Report. Attachment: Memorandum from Budget Director Larry Lisenbee, dated June 7, 2007, recommending acceptance of the report.

The Committee accepted the report.

- (e) Monthly Financial Reports. Attachments: Memoranda from Redevelopment Agency Executive Director Harry S. Mavrogenes, all three dated June 6, 2007, recommending acceptance of the reports.
 - (1) Financial Statements – April 2007
 - (2) Capital Cost Report – April 2007
 - (3) Cash Flow Projections – April 2007

The Committee accepted the reports.

- (f) Report on Technology and Automation Progress - Deferred to August.
- (g) Review of Information Technology Report on Citywide Technology Needs and WiFi Status Update. Attachment: Memorandum from Director of Information Technology Randall Murphy, dated June 7, 2007, recommending acceptance of the report.

The Committee accepted the report.

- (h) Review of Allied Waste Expenditures for the Period of April 1, 2006 through March 31, 2007. Attachment: Memorandum from City Auditor Gerald Silva, dated June 8, 2007, recommending acceptance of the report.

The Committee accepted the report.

- (i) An Audit of the Bridge Repair Program. Attachment: Report of the Audit of the Bridge Repair Program from the Office of the City Auditor dated May 2007.

The Committee accepted the report.

- (j) An Audit of the Traffic Calming Program. Attachment: Report of Audit of the Traffic Calming Program from the Office of the City Auditor dated May 2007.

The Committee accepted the report.

- (k) Semi-Annual Recommendation Follow-up Report on all Outstanding Audit Recommendations for the Six Months ended December 31, 2006. Attachment: Report on All Outstanding Audit Recommendations for the Six Months ended December 31, 2006 from the Office of the City Auditor.

The Committee accepted the report.

**3.2 Report of the Public Safety, Finance and Strategic Support Committee – June 21, 2007
Council Member Nguyen, Chair (Cont'd.)**

(l) Oral Petitions - None were presented.

(m) Adjournment - The meeting was adjourned at 3:55 p.m.
(Deferred from 8/7/07 – Item 3.7)

Action: Upon motion by Council Member Nguyen, seconded by Council Member Oliverio and carried unanimously, the Public Safety, Finance and Strategic Support Committee Report and the actions of June 21, 2007, were accepted. (11-0.)

**3.3 Adoption of a resolution approving a City Council Expenditure and Reimbursement Policy. (City Attorney/City Clerk/Finance)
[Rules Committee referral 6/20/07 – Item G(1)]
(Deferred from 8/7/07 – Item 3.8)**

Action: Deferred to August 28, 2007 per Rules and Open Government Committee.

**3.4 Adoption of a resolution approving a City Council Policy establishing a code of conduct for persons attending, bringing signs or other objects to, or participating in public meetings in the Council Chambers and Committee Rooms. (City Attorney/City Clerk)
[Rules Committee referral 6/20/07 – Item G(6)]
(Deferred from 8/7/07 – Item 3.9)**

Documents Filed: Memorandum from City Attorney Richard Doyle and City Clerk Lee Price, dated August 2, 2007, recommending adoption of a resolution.

City Attorney Richard Doyle responded to Council questions.

Public Comments: Stephen Hazel and William Garbett objected to the Staff recommendations. Ross Signorino suggested that the policy include a provision that people not block the rails in Chambers by standing or loitering on the stairway for safety reasons. He added a caution to be fair to the public when it comes to restricting refreshments in the Council Chambers.

City Attorney Richard Doyle and City Clerk Lee Price responded to Council questions.

A short discussion followed.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73947](#), entitled: “A Resolution of the Council of the City of San José Adopting a Council Policy Establishing a Code of Conduct for Public Meetings in the Council Chambers and Committee Rooms”, was adopted, as amended: (1) Amend Paragraph 1(f) to allow bottled water with a cap; and food when pre-approved. (2) Amend Paragraph 3(d) to read “abusive language is inappropriate”. (11-0.)

**3.5 Adoption of a resolution amending the Rules Resolution for the Conduct of City Council Meetings to make technical and conforming changes, and superseding Resolution No. 73586. (City Attorney/Mayor)
[Rules Committee referral 6/20/07 – Item G(7)]
(Deferred from 8/7/07 – Item 3.10)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated August 1, 2007, recommending adoption of a resolution.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73948](#), entitled: “A Resolution of the Council of the City of San José Amending the Rules of Conduct of Its Meetings, Superseding Resolution No. 73586”, was adopted. (11-0.)

3.6 Adoption of a resolution:

- (a) Approving the terms of a Memorandum of Agreement with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Unit 041 and 042, and authorizing the City Manager to execute the agreement with a term of July 1, 2007 to June 30, 2009.**
- (b) Approving the terms of a Memorandum of Agreement with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Unit 043, and authorizing the City Manager to execute the agreement with a term of July 1, 2007 to June 30, 2009.**

CEQA: Not a Project. (City Manager’s Office)

Documents Filed: Memorandum from Director of Employee Relations Alex Gurza, dated July 30, 2007, recommending adoption of a resolution.

Public Comments: Matt Loesch, Association of Engineers and Architects, spoke in favor of the Staff recommendations.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73949](#), entitled: “A Resolution of the Council of the City of San José Approving a Memorandum of Agreement with the Association of Engineers and Architects, International Federation of Professional and Technical Engineers, Local 21, Unit 041 and 042 and Approving a Memorandum of Agreement for Unit 043 and Authorizing the City Manager to Execute the Agreements with Terms of July 1, 2007 to June 30, 2009”, was adopted. (11-0.)

3.7 Acceptance of staff report and recommended next steps to reduce deferred maintenance and infrastructure backlog and direct staff to continue to analyze infrastructure conditions and funding options and bring forward recommendations to Council in the Fall of 2007. CEQA: Not a Project. (City Manager’s Office/Parks, Recreation and Neighborhood Services)

3.7 (Cont'd.)

Documents Filed: Memorandum from Deputy City Manager Ed Shikada and Director of Parks, Recreation and Neighborhood Services Albert Balagso, dated July 23, 2007, recommending acceptance of the Staff report.

Director of Parks, Recreation and Neighborhood Services Albert Balagso summarized the next steps to reduce maintenance and infrastructure backlog. Council questions followed.

Council Member Oliverio objected to the lack of options to evaluate.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried, the Staff Report was accepted. (10-1. Noes: Oliverio.)

3.8 **Adoption of a resolution approving the City Hall Exhibits Policy. CEQA: Not a Project. (Economic Development)** **[Community and Economic Development Committee Referral 6/25/07 – Item (f)]** **(Deferred from 8/7/07 – Item 4.5)**

Action: Deferred to August 21, 2007 per Rules and Open Government Committee.

- 3.9 (a) **Hold a TEFRA (Tax Equity and Fiscal Responsibility Act) Hearing for the issuance of debt pursuant to a plan of finance for Phase I of the Norman Y. Mineta San José International Airport's Master Plan, including Airport Revenue Bonds in an aggregate principal amount not to exceed \$825 million, for the purpose of financing and refinancing a portion of the costs of Phase I of the Master Plan, refinancing certain prior bonds, and funding the associated financing costs.**
- (b) **Adoption of the Fifteenth Supplemental Resolution of the City Council:**
- (1) **Authorizing the issuance of City of San José Airport Revenue Bonds, Series 2007A (the "2007A Bonds"), Series 2007B (the "2007B Bonds"), Series 2007C Refunding (the "2007C Bonds"), and Series 2007D Refunding (the "2007D Bonds") (collectively, the "2007 Bonds") in the not-to-exceed aggregate principal amount of \$825 million to be sold through a negotiated sale for the purpose of financing a portion of the costs of Phase I of the Airport Master Plan; funding capitalized interest on the 2007 Bonds and for a portion of the outstanding City of San José Airport Revenue Bonds, Series 2004 (the "2004 Bonds"); funding financing fees associated with the 2004 Bonds; refinancing some or all of the tax-exempt commercial paper notes issued to fund a portion of the Phase I projects; refinancing certain outstanding City of San José Airport Revenue Refunding Bonds, Series 1998A (the "1998A Bonds") and San José Airport Revenue Bonds, Series 2001A (the "2001A Bonds") to the extent such refinancings provide sufficient debt service savings to the City; funding a reserve fund or the cost of a reserve surety policy; funding the bond insurance premium; and paying the costs of issuance of the 2007 Bonds.**

- 3.9 (b) (2) **Authorizing the negotiation and execution of certain financing documents, including the Fifth Supplemental Trust Agreement, one or more Escrow Agreements and other related documents; authorizing the negotiated sale of the 2007 Bonds and the negotiation and execution of the Bond Purchase Agreement with Lehman Brothers, as representative of the underwriters; approving in substantially final form the Preliminary Official Statement for the 2007 Bonds and authorizing the distribution of the Preliminary and Final Official Statements for the 2007 Bonds; declaring the official intent of the City to reimburse certain expenditures from the proceeds of indebtedness; and authorizing certain related actions in connection with the issuance of the 2007 Bonds. (Cont'd.)**
- (c) **Approval of an Agreement by and among the City, Fullerton & Friar, Inc., and Public Resources Advisory Group for financial advisory services in connection with the issuance of the 2007 Bonds in an amount not to exceed \$270,000 for the term of February 27, 2007, to December 31, 2007.**
- (d) **Adoption of a resolution authorizing the City Attorney to negotiate and execute an Agreement with Orrick, Herrington & Sutcliffe LLP for bond and disclosure counsel services in connection with the issuance of the 2007 Bonds in an amount not to exceed \$350,000.**

CEQA: Resolution Nos. 67380 and 71451, File No. PP07-149. (Finance/Airport)

Documents Filed: (1) Statements and Declarations of Conflict of Interest Forms from Council Member Chirco and Council Member Chu, both dated August 13, 2007. (2) Memorandum from Director of Finance Scott Johnson and Director of Aviation William Sherry, dated July 23, 2007, recommending holding a TEFRA Hearing and adoption of resolutions and approval of an agreement. (3) Supplemental memorandum from Director of Finance Scott Johnson, dated August 3, 2007, providing updated information regarding the issuance of the bonds, the status of the lease agreements, the procurement of bond insurance and the transmittal of the substantially final form of the documents related to the financing. (4) Memorandum from Deputy Director of Finance Julia Cooper, dated August 6, 2007, transmitting the bond documents.

Council Member Chu abstained due to a conflict of interest involving an investment with Harbor Express. Council Member Chirco abstained due to a conflict of interest pertaining to an investment with Southwest Airlines.

Director of Aviation William Sherry outlined some aspects of the Airport Revenue Bonds, Series 2007 and Finance Director Scott Johnson summarized the Estimated Sources and Uses of Funds and responded to Council questions.

Public Comments: Mayor Reed opened the TEFRA Hearing. William Garbett objected to the Staff recommendations. Ross Signorino raised questions about costs. Mayor Reed closed the TEFRA Hearing.

Deputy Director of Finance Julia Cooper responded to Council questions. Brief discussion followed.

3.9 (Cont'd.)

Action: Upon motion by Council Member Liccardo, seconded by Council Member Pyle and carried unanimously, [Resolution No. 73950](#), entitled: “A Resolution of the Council of the City of San José Approving the Forms of Fifth Supplemental Trust Agreement, Preliminary Official Statement, Final Official Statement, Bond Purchase Agreement, Continuing Disclosure Certificate and One or More Escrow Agreements; Providing for the Issuance of City of San José Airport Revenue Bonds, Series 2007A, Series 2007B, Series 2007C Refunding and Series 2007D Refunding in an Aggregate Principal Amount Not To Exceed \$825,000,000; Prescribing the Terms, Conditions and Form of Said Series of Bonds; Declaring the Official Intent of the City to Reimburse Certain Expenditures from Proceeds of Indebtedness; and Authorizing and Approving Other Related Actions” and [Resolution No. 73951](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City Attorney to Negotiate and Execute an Agreement with Orrick, Herrington and Sutcliffe LLP for Bond and Disclosure Counsel Services in Connection with the 2007 Airport Revenue Bonds”, were adopted; the agreement by and among the City, Fullerton & Friar, Inc., and Public Resources Advisory Group for financial advisory services in connection with the issuance of the 2007 Bonds in an amount not to exceed \$270,000 for the term of February 27, 2007, to December 31, 2007 was approved, with Staff directed to provide an information memorandum on the schedule of the total debt service. (9-0-2. Disqualified: Chirco, Chu.)

3.10 (a) Adoption of a resolution:

- (1) **Finding that an unusual or unique situation exists that makes the application of the requirements for competitive procurement of a service agreement contrary to the public interest.**
- (2) **Authorizing the Director of Finance to negotiate and execute and agreement with BearingPoint for the development and implementation of a Business Tax License application into the Integrated Billing system for a not-to-exceed amount of \$1,900,000, including \$155,000 in contingencies and to execute change orders not-to-exceed the contingency amount for modification of scope of services.**

(b) Adoption of the following Appropriation Ordinance Amendments in the General Fund for 2007-2008:

- (1) **Decrease the Information Technology Business Applications appropriation by \$500,000.**
- (2) **Increase the Technology Legacy Migrations Application appropriation by \$500,000.**

CEQA: Not a Project. (Information Technology/Finance/City Manager's Office)

Documents Filed: Memorandum from Director of Information Technology Randall Murphy, Director of Finance Scott Johnson and Acting Budget Director Jennifer Maguire recommending adoption of a resolution and appropriation ordinance amendments.

Finance Director Scott Johnson presented and Director of Information Technology Randall Murphy provided the Staff Report and responded to numerous Council questions.

3.10 (Cont'd.)

Council Member Oliverio expressed concern about costs.

Public Comments: William Garbett objected to the Staff recommendations and stated that Staff conduct another competitive bid process.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried, [Resolution No. 73952](#), entitled: “A Resolution of the Council of the City of San José Finding that an Unusual or Unique Situation Exists that Makes the Application of the Requirements for Competitive Procurement of a Service Agreement Contrary to the Public Interest and Authorizing the Director of Finance to Negotiate and Execute an Agreement with BearingPoint for the Development and Implementation of a Business Tax License Application into the Integrated Billing System for a Not To Exceed Amount of \$1,900,000 Including \$155,000 in Contingencies and To Execute Change Orders Not To Exceed the Contingency Amount”, and [Ordinance No. 28092](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the General Fund for the Technology Legacy Migrations Application; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”, were adopted, with Staff directed to include comparative to original assumptions in the cost/benefit analysis, returning in the Fall. (10-1. Noes: Oliverio.)

3.11 (a) **Public meeting to receive public comment on a proposal to make changes to Maintenance District 18.**

(b) **Amend Resolution No. 73853 to reschedule the public hearing and tabulation of property owner ballots to October 2, 2007 at 7:00 p.m.**

CEQA: Exempt, File No. PP07-020. Council District 8. (Public Works)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated July 23, 2007, recommending conducting public meeting and adoption of a resolution. (2) Proof of Publication of Notice of Public Hearing, executed on August 1, 2007, submitted by the City Clerk.

Public Comments: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Chirco, seconded by Vice Mayor Cortes and carried unanimously, [Resolution No. 73953](#), entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 73853 Preliminarily Approving the Engineer’s Report for a Change to Maintenance District 18 (The Meadowlands) to Change the Public Hearing Date and Tabulation of Property Owners Ballots from September 18, 2007 to October 2, 2007”, were adopted. (11-0.)

3.12 Report of the Rules and Open Government Committee – May 30, 2007 Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report dated May 30, 2007.

(a) City Council

(1) Review New Add Items to June 5, 2007 Agenda

The Committee approved two additions to the June 5, 2007 City Council Agenda

(2) Review June 12, 2007 Draft Agenda

The Committee approved seven additions to the June 12, 2007 Draft City Council Agenda

(b) Redevelopment Agency items reported out at Redevelopment Agency meeting

(c) Legislative Update

(1) State

(a) SB 966 (Simitian and Kuehl) – Pharmaceutical Drug Disposal. Attachment: Memorandum from Director of Environmental Services John Stufflebean, dated May 22, 2007, recommending support.

The Committee approved the Staff recommendation and requested that this item be brought to the full Council. Heard by Council on June 5, 2007 – Item 3.12.

(2) Federal - There was none.

(d) Meeting Schedules. Attachments: (1) Memorandum from Agenda Services Manager Nadine Nader, dated May 24, 2007, recommending approval of the Council Meeting Schedule. (2) Memorandum from Deputy City Manager Deanna J. Santana, dated May 25, 2007, recommending approval of the meetings.

(1) Council Meeting Schedule August 2007 – January 2008.

(2) (1) Review two proposed meeting formats as presented by the Independent Police Auditor and the Administration; (2) Approve one of the proposed formats, or a hybrid of the two proposals, for a Special Council Meeting scheduled on June 21, 2007, beginning at 6:00 p.m., in the City Council Chambers for consideration of various police related reports.

The Committee approved the meeting schedules.

3.12 Report of the Rules and Open Government Committee – May 30, 2007 (Cont'd.)
Mayor Reed, Chair

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated May 25, 2007, transmitting items for the Public Record for the period of May 18-24, 2007.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees
 - (1) Amendment to the Residency Requirement of the News Media Member of the Sunshine Reform Task Force and Appointment of Bert Robinson to the Sunshine Task Force. Attachment: Memorandum from Mayor Reed, dated May 23, 2007, recommending amending the membership criteria.

The Committee approved the amendment and requested this item be brought to the full Council. Heard by Council on June 5, 2007 – Item 3.13.

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Approve Travel Request. Attachment: Memorandum from Mayor Reed, dated May 24, 2007, requesting approval of travel.

The Committee approved the travel request.

- (2) Historic Freedom Shrine Display. Attachment: Memorandum from Mayor Reed, dated May 21, 2007, recommending approval of the display.

The Committee approved the display.

- (3) Approve the use of the District 4 Special Event Fund and to acknowledge the receipt of and use of various donations in support of the Community Resource Fair to be held on Sunday, June 3, 2007 in the City Hall Civic Plaza and Rotunda. Attachment: Memorandum from City Clerk Lee Price, dated May 25, 2007, requesting approval of the use of the District 4 Special Event funds.

The Committee approved the request.

- (h) Review of Council Committee Agendas – There were none.

3.12 Report of the Rules and Open Government Committee – May 30, 2007 (Cont'd.)
Mayor Reed, Chair

- (i) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force
 - (a) Phase 1 Report and Open Government Recommendations. Attachment: Memorandum from Deputy City Manager Dan McFadden, dated May 23, 2007, transmitting the Sunshine Reform Task Force report and clarifications.

Continued to 6/6/07, with Staff directed to return to the Sunshine Reform Task Force and obtain greater clarify around the list of policy bodies.

- (3) Significant Public Records Act Requests
- (4) Council Policy Manual Update
 - (a) Approval to Validate Selected Policies Contained in the City Council Policy Manual.

The Committee approved the selected policies. Heard by the Council on June 19, 2007 – Item 2.6 (d) – (f).

(j) Open Forum

Yolanda Reynolds, Save BAREC, submitted a response to the Committee's questions and urged the Committee to put the open space land on Winchester across from Valley Fair on the City Council agenda.

- (k) Adjournment - The meeting was adjourned at 4:16 p.m.
(Deferred from 6/19/07 – Item 3.2, 6/26/07 – Item 3.10, and 8/7/07 – Item 3.2)

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the Rules and Open Government Committee Report and the actions of May 30, 2007, were accepted. (11-0.)

3.13 Report of the Rules and Open Government Committee – June 6, 2007
Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report dated June 6, 2007.

- (a) City Council
 - (1) Review New Add Items to June 12, 2007 Final Agenda
The Committee approved the June 12, 2007 City Council Agenda with four additions.

3.13 Report of the Rules and Open Government Committee – June 6, 2007 (Cont'd.)
Mayor Reed, Chair

- (a) City Council (Cont'd.)
 - (2) Review June 19, 2007 Draft Agenda
The Committee approved the June 19, 2007 Draft City Council Agenda with two additions.
- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (c) Legislative Update
 - (1) State
 - (a) AB 1030 (Caballero) Libraries: Literacy and English Acquisition Services. Attachment: Memorandum from City Library Director Jane Light, dated May 29, 2007, recommending approval of support.

The Committee approved the support position with a one week turnaround for City Council review. Heard by Council on June 12, 2007 – Item 3.7.
 - (b) Propositions 1E and 84. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell and Director of Environmental Services John Stufflebean, dated May 30, 2007, recommending acceptance of the status report.

The Committee accepted the Status Report, with Staff directed to work with PRNS on the priority list on a one week turnaround. Heard by Council on June 12, 2007 – Item 3.8.
 - (2) Federal

There was none.
- (d) Meeting Schedules

There was none.
- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated June 1, 2007, transmitting items for the Public Record for the period of May 25-May 31, 2007.

The Committee noted and filed the Public Record Items (a)-(c) and Item (d) was continued to June 13, 2007 Rules and Open Government Committee Meeting to allow the City Clerk to verify the number of signatures on the citizens petition entitled, "Please help save Down Town Hog Dogs".

3.13 Report of the Rules and Open Government Committee – June 6, 2007 (Cont'd.)
Mayor Reed, Chair

(f) Appointments to Boards, Commissions and Committees

There were none.

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Smoking Prohibition in City Parks. Attachment: Memorandum from Vice Mayor Cortese and Council Member Nguyen, dated May 31, 2007, recommending a Smoking Prohibition in City Parks.

The Committee referred this item to the Parks and Recreation Commission for recommendation to the Rules and Open Government Committee in September.

- (2) Request for Work Load Assessment. Attachment: Memorandum from Vice Mayor Cortese and Council Member Chirco, dated May 31, 2007, transmitting a request for a work load assessment.

The Committee referred this item back to Staff for a work load assessment and to return to the Rules and Open Government Committee.

- (3) Authorization to Travel. Attachment: Memorandum from Mayor Reed, dated June 1, 2007, requesting approval of travel.

The Committee approved the travel request for Mayor Reed. Heard by Council on June 26, 2007, Item 2.25.

- (4) Council Expenditures and Reimbursement Policy.

Deferred to June 13, 2007 per Mayor Reed.

(h) Review of Council Committee Agendas

- (1) Community and Economic Development Committee
(a) Add item to the CEDC Work Plan Agenda of June 25, 2007.

The Committee amended the work plan.

3.13 Report of the Rules and Open Government Committee – June 6, 2007 (Cont'd.)
Mayor Reed, Chair

- (i) Open Government Initiatives
 - (1) Reed Reforms
 - (2) Sunshine Reform Task Force
 - (a) Meeting Schedule for Discussion of SRTF Phase 1 Report. Attachment: Memorandum from Deputy City Manager Dan McFadden, dated May 31, 2007, transmitting the Sunshine Reform Task Force report and clarifications.

The Committee directed Staff to schedule a special Rules and Open Government Committee Study Session by the end of June.

- (3) Significant Public Records Act Requests
- (4) Council Policy Manual Update
 - (a) Approval to Validate Selected Policies Contained in the City Council Policy Manual.

The Committee approved the Staff recommendation.

- (j) Open Forum

Ed Rast, Sunshine Reform Task Force Chair requested to have the City Policy be placed on the City of San José web site.

- (k) Adjournment - The meeting was adjourned at 4:16 p.m.
(Deferred from 6/26/07 – Item 3.1, and 8/7/07 – Item 3.3)

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the Rules and Open Government Committee Report and the actions of June 6, 2007, were accepted. (11-0.)

3.14 Report of the Rules and Open Government Committee – June 13, 2007
Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report dated June 13, 2007.

- (a) City Council
 - (1) Review New Add Items to June 19, 2007 Final Agenda

The Committee approved the June 19, 2007 City Council Agenda with one addition.

3.14 Report of the Rules and Open Government Committee – June 13, 2007 (Cont'd.)
Mayor Reed, Chair

- (a) City Council (Cont'd.)
- (2) Review June 26, 2007 Draft Agenda

The Committee approved the June 26, 2007 Draft City Council Agenda with one addition.

- (b) Redevelopment Agency items reported out at Redevelopment Agency meeting

- (c) Legislative Update

- (1) State

- (a) Acceptance of the June 2007 State Legislative Bill Matrix. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell and Legislative Representative Roxanne Miller, dated June 7, 2007, recommending acceptance of the bill matrix.

Formal action deferred to June 20, 2007.

- (2) Federal

- (a) Legislative Issue – Federal Aviation Administration Reauthorization Bill. Attachment: Memorandum from Director of Aviation William Sherry, dated June 4, 2007, recommending adoption of support positions.

Heard by Council 6/26/07, Item 2.49.

- (d) Meeting Schedules

- (1) Approval to set the Annual city of San José and Santa Clara County meeting on August 23, 2007.
 - (2) Approval to schedule special Joint Rules and Open Government Committee and Sunshine Reform Task Force Meeting on June 27, 2007. Attachments: (1) Memorandum from City Manager Les White, dated Jun 7, 2007, recommending approval to set the annual meeting. (2) Memorandum from Senior Executive Analyst Sheila Tucker, dated June 8, 2007, recommending approval of a joint meeting.

The Committee approved the meeting schedules.

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated June 8, 2007, transmitting items for the Public Record for the period of June 1-7, 2007.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees - There were none.

3.14 Report of the Rules and Open Government Committee – June 13, 2007 (Cont'd.)
Mayor Reed, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Council Expenditures and Reimbursement Policy.
 - (2) Discussion of Cost-Neutral Opportunities for a Public Safety Memorial at New City Hall with Direction to Implement Memorial and Process for Accepting Private Sponsorship. Attachment: Memorandum from City Attorney Richard Doyle and City Clerk Lee Price, dated June 8, 2007, recommending approval of the Council Expenditures and Reimbursement Policy. (2) Memorandum from Council Members Constant and Pyle, dated May 22, 2007, regarding a Public Safety Memorial at City Hall.

The Committee directed Staff to return within 90 days to the Rules and Open Government Committee with recommendations.

- (3) Del Monte Park Master Plan - Deferred one week.
- (h) Review of Council Committee Agendas
 - (1) Community and Economic Development Committee
 - (2) Neighborhood Services and Education Committee
 - (3) Transportation and Environment Committee
 - (4) Public Safety, Finance and Strategic Support Committee

There were none.

- (i) Open Government Initiatives
 - (3) Significant Public Records Act Requests
 - (a) Request from Paul J. Manley for information regarding Delinquent Notices/Inspection Practice from Planning, Building and Code Enforcement Department. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated June 7, 2007, regarding Paul Manley's request for public records.

The City Attorney was directed to return on June 20, 2007 with a determination about the release of the documents.

- (j) Open Forum - None were presented.
- (k) Adjournment - The meeting was adjourned at 4:25 p.m.
(Deferred from 8/7/07 – Item 3.4)

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the Rules and Open Government Committee Report and the actions of June 13, 2007, were accepted. (11-0.)

3.15 Report of the Rules and Open Government Committee – June 20, 2007
Mayor Reed, Chair

Documents Filed: The Rules and Open Government Committee Report dated June 20, 2007.

(a) City Council

(1) Review New Add Items to June 26, 2007 Final Agenda

The Committee approved the June 26, 2007 City Council Agenda with eight additions.

(2) Review July 3, 2007 Draft Agenda

None, Meeting Canceled.

(b) Redevelopment Agency items reported out at Redevelopment Agency meeting

(c) Legislative Update

(1) State

(a) 2007-2008 State Budget: Proposition 42 Funding and the Public Transportation Account (PTA) Transit “Spillover” Funds. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell and Legislative Representative Roxanne Miller, dated June 15, 2007, transmitting the report.

The Committee accepted the report. Heard by Council on June 26, 2007 – Item 2.50(a).

(b) SB 1021 (Padilla) Beverage Containers: Grants.

The Committee approved the support position. Heard by Council on June 26, 2007 – Item 2.50(b).

(2) Federal

(a) Update on San José Federal Relations Activities. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated June 15, 2007, recommending acceptance of the report.

The Committee accepted the report.

(d) Meeting Schedules

(1) Rules and Open Government Committee Summer Meeting Schedule.

The Committee approved the meeting schedule.

3.15 Report of the Rules and Open Government Committee – June 20, 2007 (Cont'd.)
Mayor Reed, Chair

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated June 15, 2007, transmitting items for the Public Record for the period of June 8-14, 2007.

The Committee noted and filed the Public Record and continued the letter from Values Advocacy Council to the August 8, 2007 Rules and Open Government Committee meeting for further discussion.

- (f) Appointments to Boards, Commissions and Committees
 - (1) Appointments to the following Commissions: (1) Airport Commission; (2) Advisory Commission; (3) Art Commission; (4) Disability Commission; (5) Early Care and Education Commission; (6) Housing and Community Development Advisory Commission; (7) Library Commission; (8) Parks and Recreation Commission; (9) Senior Citizens Commission.

The Committee approved the appointments. Heard by Council on June 26, 2007, Item 2.51.

- (f) Appointments to Boards, Commissions and Committees (Cont'd.)
 - (2) Re-appointment to the Bay Area Water Supply and Conservation Agency.

The Committee approved the reappointment. Heard by Council on June 26, 2007, Item 2.52.

- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Council Expenditures and Reimbursement Policy.

The Committee approved the Staff recommendation. See Item 3.8 for Council Action taken.

- (2) Del Monte Park Master Plan.

The Committee referred this item to the full Council on 8/14/07 in the evening. See Item 4.3 for Council Action taken.

- (3) Recent Work and Status of the Parks Maintenance Funding Subcommittee.

The Committee moved this item to the August 7, 2007 Council meeting as a status report from the Parks Maintenance Funding Subcommittee and recommended a study session for further discussion and consideration.

- (4) Request for Travel.

Heard By Council 6/26/07 – Item 2.46

3.15 Report of the Rules and Open Government Committee – June 20, 2007 (Cont'd.)
Mayor Reed, Chair

(g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)

(5) Approve the following proposed Committee Work Plans:

- (a) Transportation and Environment Committee
- (b) Community and Economic Development Committee
- (c) Public Safety, Finance and Strategic Support Committee
- (d) Neighborhood Services and Education Committee
- (e) Rules and Open Government Committee

The Committee approved the work plans.

(6) Code of Conduct for Public Participation.

The Committee approved the Staff recommendation as modified. See Item 3.9 for Council Action taken.

(7) Approval of an amendment to Resolution No. 73586 (Rules of Conduct of City Council Meetings) to clarify rules governing authority to enforce disorderly conduct provisions.

The Committee approved this item. See Item 3.10 for Council Action taken.

(8) Workload assessment on San José Youth Commission.

The Committee approved this item.

(h) Review of Council Committee Agendas

(i) Open Government Initiatives

- (1) Reed Reforms
- (2) Sunshine Reform Task Force
- (3) Significant Public Records Act Requests
 - (a) Response from City Attorney regarding request from Paul J. Manley for information regarding Delinquent Notices/Inspection Practice from Planning, Building and Code Enforcement Department.

No action taken.

(j) Open Forum - None were presented.

**3.15 Report of the Rules and Open Government Committee – June 20, 2007 (Cont'd.)
Mayor Reed, Chair**

(k) Adjournment - The meeting was adjourned at 4:04 p.m.
(Deferred from 8/7/07 – Item 3.5)

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the Rules and Open Government Committee Report and the actions of June 20, 2007, were accepted. (11-0.)

**3.16 Joint Meeting of the Rules and Open Government Committee and the Sunshine Reform Task Force – June 27, 2007
Mayor Reed, Chair**

Action: Deferred to August 28, 2007 per Orders of the Day.

3.17 As recommended by the Rules and Open Government Committee on August 8, 2007 adopt a support if amended position for Assembly Bill 548, Solid Waste: Multifamily dwellings; and:

- (a) Authorize a letter of support if amended to Assembly Member Levine;
- (b) Authorize Environmental Services staff to participate as technical resources during the development of future legislation on recycling related to Multifamily dwellings.

(Environmental Services)

[Rules Committee referral 8/8/07 – Item C(1)(a)]

Documents Filed: Memorandum from City Clerk Lee Price, dated August 10, 2007, transmitting the recommendation of the Rules and Open Government Committee.

At the request of Council Member Constant, Staff provided a brief summary of the bill and amendment requested.

Action: Upon motion by Council Member Chirco, seconded by Council Member Campos and carried unanimously, a position of support, if amended was approved. (11-0.)

3.18 As recommended by the Rules and Open Government Committee on August 8, 2007, adopt a support position for California Senate Bill 1020, Solid Waste Diversion; and:

- (a) Authorize Environmental Services staff to develop support letters and actively participate as technical resources during the development of this and future legislation on changes in solid waste diversion; and
- (b) Direct Environmental Services staff to participate in the California Integrated Waste Management Board's development of policies, programs and incentives to be developed as part of implementation of SB 1020.

(Environmental Services)

[Rules Committee referral 8/8/07 – Item C(1)(d)]

3.18 (Cont'd.)

Documents Filed: Memorandum from City Clerk Lee Price, dated August 10, 2007, transmitting the recommendation of the Rules and Open Government Committee.

Action: Upon motion by Council Member Chirco, seconded by Council Member Campos and carried unanimously, a position of support was approved. (11-0.)

3.19 As recommended by the Rules and Open Government Committee on August 8, 2007, approve the designation of Council Member Campos as the voting delegate and Council Member Chirco as the alternate voting delegate at the September 8, 2007 Annual Business Meeting for the League of California Cities (LOCC). (City Manager's Office) [Rules Committee referral 8/8/07 – Item G(3)]

Documents Filed: Memorandum from City Clerk Lee Price, dated August 10, 2007, transmitting the recommendation of the Rules and Open Government Committee.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Williams and carried unanimously Council Member Campos as the voting delegate and Council Member Chirco as the alternate voting delegate at the September 8, 2007 Annual Business Meeting for the League of California Cities were approved. (11-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Community & Economic Development Committee – June 25, 2007 Council Member Pyle, Chair

Documents Filed: Report of the Community and Economic Development Committee Report dated June 25, 2007.

- (a) Review of Fall Committee Work Plan. Memorandum from Mayor Reed and Council Member Pyle, dated June 25, 2007, recommending acceptance of the work plan.

The Committee accepted the work plan.

- (b) Review of Performance Measuring Reporting. Attachment: Memorandum from Chief Deputy City Manager Kay Winer, dated June 12, 2007, transmitting the staff report.

The Committee accepted the Staff report.

**4.1 Report of the Community & Economic Development Committee – June 25, 2007
Council Member Pyle, Chair (Cont'd.)**

- (c) Evaluation of 2nd Unit Pilot Program

Deferred to August 27, 2007 meeting.

- (d) Proposition 1 C Housing and Emergency Shelter Trust Fund.

Deferred to the Fall 2007 work plan.

- (e) Affordable Housing Investment Plan - Dropped.

- (f) City Hall Exhibits. Attachment: Memorandum from Chief Development Officer Paul Krutko, dated June 8, 2007, recommending acceptance of the report.

The Committee accepted the Staff report. See Item 3.8 for Council Action taken.

- (g) Update on Efforts to Stabilize Arts Organizations. Attachment: Memorandum from Chief Deputy City Manager Kay Winer, dated May 4, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (h) Small and Local Business Contracting. Attachment: Memorandum from Director of Public Works Katy Allen and Director of Finance Scott Johnson, dated April 30, 2007, recommending acceptance of the report.

The Committee accepted the Staff report.

- (i) Catalyst Program - Dropped.

- (j) Arts Stabilization Loan Fund - Deferred to 8/27/07 meeting.

- (k) Oral Petitions - None were presented.

- (l) Adjournment - The meeting was adjourned at 2:35 p.m.
(Deferred from 8/7/07 – Item 4.1)

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, the Community and Economic Development Committee Report and the actions of June 25, 2007 were accepted. (11-0.)

- 4.2 (a) Approval to incorporate the following Sunshine Reform Task Force Recommendations into Council-adopted Cost-Benefit Analysis Pilot Program: D.1.i. (Accountability), D.1.ii. (Net fiscal impact), D.1.iv.(A) (Housing Impact: Number of units constructed/ demolished), D.1.v. (Source of funds), and D.1.vi. (Neighborhood impacts); and
- (b) Approval to disaggregate ‘public subsidies’ proposals from the Sunshine Ordinance.

CEQA: Exempt. (Economic Development)

Action: Deferred to August 28, 2007 per Rules and Open Government Committee.

- 4.4 (a) Public hearing and adoption of a resolution designating the Queen Anne Victorian House located at 1023 Bird Avenue as a landmark of special historic, architectural, cultural, aesthetic or engineering interest or value of an historic nature. (City Landmark No. HL06-157)
- (b) Public hearing on the Historical Property Contract (California Mills Act No. MA07-002) between the City of San José and the owners of the Queen Anne Victorian House (City Landmark No. HL06-157) on a 0.19 acre site, located at 1023 Bird Avenue (Keith and Pamela Shukait, Owners) and adoption of a resolution approving the contract. The proposed contract, which is available to owners of designated City Landmark buildings, would facilitate a property tax reassessment and partial tax relief in return for a binding agreement to rehabilitate and maintain the historical and architectural character of the property for at least a ten year period.

CEQA: Exempt. Council District 6. (Planning, Building and Code Enforcement)

Action: Continued to September 25, 2007 per Administration.

4.5 Public hearing and adoption of a resolution:

- (a) Accepting the summary of costs and findings of the Summary 33433 Report pursuant to Health and Safety Code Section 33433 for the conveyance and disposition of the property located at the Northeast corner of Almaden Expressway and Coleman Road under the terms and conditions of the proposed Disposition and Development Agreement (“DDA”).
- (b) Approving a DDA between the City of San José and Barry Swenson Builder, or its designated affiliate, enabling the development of Sycamore Terrace, a 32-unit for-sale housing development, and authorizing the City Manager or her designee to negotiate, execute, and record all documents reasonably necessary to convey the property as provided in the DDA.
- (c) Approving a funding commitment of up to \$1,600,000 for the project to fund second mortgages for 16 moderate-income homebuyers.

CEQA: Mitigated Negative Declaration, File No. PDC 90-061. Council District 10. (Housing)

(Deferred from 8/7/07 – Item 4.2)

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated July 24, 2007, recommending holding a public hearing and adoption of a resolution.

4.5 (Cont'd.)

Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Chirco and carried unanimously, [Resolution No. 73954](#), entitled: “A Resolution of the Council of the City of San José (a) Accepting the Summary of Costs and Findings of the Summary 33433 Report Pursuant to Health and Safety Code Section 33433 for the Conveyance and Disposition of the Property Located at the Northeast Corner of Almaden Expressway and Coleman Road Under the Terms and Conditions of the Proposed Disposition and Development Agreement (DDA); (b) Approving a DDA between the City of San José and Barry Swenson Builder, a 32 Unit for Sale Housing Development and Authorizing the City Manager or Designee to Negotiate, Execute and Record all Documents Reasonably Necessary to Convey the Property as Provided in the DDA; (c) Approving a Funding Commitment of up to \$1,600,000 for the Project to Fund Second Mortgages for 16 Moderate Income Homebuyers”, was adopted. (11-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.2 (a) **Report on bids and award of contract for the Silicon Valley Intelligent Transportation System West Corridor Project, to the sole bidder, Vellutini Corporation dba Royal Electric Company, in the amount of \$2,944,876, and approval of a contingency in the amount of \$222,000.**
- (b) **Adoption of the following Appropriation Ordinance Amendments in the Building and Structure Construction Tax Fund:**
- (1) **Increase the ITS: Stevens Creek-West appropriation by \$920,000.**
 - (2) **Decrease the Reserve - Valley Transportation Plan 2030 Priorities appropriation by \$920,000.**

CEQA: Exempt, File No. PP02-07-194. Council Districts 1 and 6. SNI: Burbank/Del Monte/Winchester. (Public Works/Transportation/City Manager’s Office)

Documents Filed: Memorandum from Director of Public Works Katy Allen, Director of Transportation James Helmer and Acting Budget Director Jennifer Maguire, dated July 23, 2007, recommending award of the contract to the sole bidder and adoption of appropriation ordinance amendments.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, the contract for the Silicon Valley Intelligent Transportation System West Corridor Project, to the sole bidder, Vellutini Corporation dba Royal Electric Company, in the amount of \$2,944,876, with related contingency was approved and [Ordinance No. 28093](#), entitled: “An Ordinance of the City of San José Amending Ordinance No. 28071 to Appropriate Monies in the Building and Structure Construction Tax Fund for ITS: Stevens Creek West Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption”, was adopted. (11-0.)

PUBLIC SAFETY SERVICES

8.1 Approval of Staff's response to the 2006-2007 Santa Clara County Civil Grand Jury's report entitled, "Disaster Preparedness in the County: Improvements Needed" issued on May 22, 2007. CEQA: Not a Project. (Emergency Services)

Documents Filed: Memorandum from Director of Office of Emergency Services Kimberly Shunk, dated July 23, 2007, recommending approval of Staff's response.

Director of Office of Emergency Services Kimberly Shunk responded to brief questions.

Action: Upon motion by Council Member Williams, seconded by Council Member Chirco and carried unanimously, Staff's response to the 2006-2007 Santa Clara County Civil Grand Jury's report entitled, "Disaster Preparedness in the County: Improvements Needed" issued on May 22, 2007 was approved. (11-0.)

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 4:33 p.m. to consider Item 9.1 in a Joint Session.

9.1 Approval of City Council and Redevelopment Agency Committee appointments. (Mayor) [Rules Committee referral 8/8/07 – Item f(1)]

Documents Filed: Memorandum from City Clerk Lee Price, dated August 10, 2007, transmitting the recommendation of the Rules and Open Government Committee.

Council Member Liccardo noted a correction on Page 3 of the Committee Roster to replace Liccardo with Chu on the Santa Clara County Local Agency Formation Committee.

Action: Upon motion by Vice Mayor Cortese, seconded by Council Member Pyle and carried unanimously, the City Council and Redevelopment Agency Committee appointments were approved, with correction noted on Page 3, Committee Roster Attachment A, Santa Clara County Local Agency Formation (LAFCO), replace Liccardo with Chu. (11-0.)

NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San José Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9893	S/S Villa Ave, 240'E of Myrtle Street	6	Margaret Pham	1 Lot/ 6 Units	SFA	Approve

NOTICE OF CITY ENGINEER'S AWARD OF CONSTRUCTION PROJECTS

In accordance with Council Resolution No. 73532, the construction Contract Process Streamlining Policy approved on December 5, 2006, the following is a list of projects that were awarded or rejected by the Director of Public Works in June and July 2007:

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
San José International Airport General Mechanical/Plumbing Contract 06-07	Citywide	Ciari Plumbing and Heating, Inc.	\$18% overhead/ profit, not to exceed 130,000	6/6/07
Terminal A Elevator Modernization	Citywide	KONE, Inc.	\$346,460	6/6/07
Traffic Signal Installation at Seventh and Phelan Streets	7	Pacific Electric Company	\$184,430	6/8/07
Police Firing Range Target System Retrofit	3	George Bianchi Construction, Inc.	\$163,283	6/14/07

NOTICE OF CITY ENGINEER'S AWARD OF CONSTRUCTION PROJECTS

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Various Modification Projects at City Hall	Citywide	Tucker Construction, Inc.	\$874,500	6/14/07
Traffic Signal Modification at Santa Clara Street and Seventh Street	3	San José Signal Electric Construction, Inc.	\$336,369	6/26/07
Oakland Rd Improv. Segment 3	4	Wattis Construction Company, Inc.	\$210,060	6/29/07
San José Airport Runway 12R/30L Centerline Lights	Citywide	St. Francis Electric	\$256,376	7/5/07
San José Redundant Fiber Link	3	Pacific Electric Company	\$225,900	7/9/07
San José Airport Federal Inspection Services 3rd Floor Lounge	Citywide	Western Construction Inc.	\$641,981	7/12/07
Union Avenue at Ross Creek Improvement	9	A. J. Vasconi Inc dba A.J. Vasconi Gen Eng	\$587,980	7/18/07

OPEN FORUM

- (1) Robert Apgar voiced personal observations.
- (2) Mark Trout presented religious points of view.
- (3) Stephen Hazel voiced personal points of view.
- (4) Armando Casadio complained about not being able to procure a police report.
- (5) Ross Signorino complimented City Manager Debra Figone and City Clerk Lee Price for their service to the City.

ADJOURNMENT

The Council of the City of San José adjourned the afternoon session at 4:34 p.m.

RECESS/RECONVENE

The City Council recessed at 4:34 p.m. from the afternoon Council Session and reconvened at 7:01 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chirco, Chu Constant, Cortese, Liccardo, Nguyen, Oliverio, Pyle, Williams; Reed.

Absent: Council Members - None.

City Clerk Lee Price read the requests for continuance of the applications. Upon motion by Council Member Chirco, seconded by Council Member Oliverio, and carried unanimously, the below noted continuances and actions were taken as indicated. (11-0.)

CEREMONIAL ITEMS

1.4 Presentation of a commendation for the San José Beautiful Neighborhood Improvement Awards. (Mayor)

Action: Mayor Reed recognized and commended the recipients of the San José Beautiful Improvement Awards.

COMMUNITY & ECONOMIC DEVELOPMENT

4.3 As recommended by the Rules and Open Government Committee on June 20, 2007 direct staff to include a restroom and “dog run” in the site planning for Phase I of the 2.2 acre Del Monte project, subject to sufficient funding being available for those elements. CEQA: Resolution No. 72625. (Oliverio) [Rules Committee referral 6/20/07 – Item G(2)]

Documents Filed: Memorandum from City Clerk Lee Price, dated July 2, 2007, transmitting the recommendation of the Rules and Open Government Committee, including a memorandum from Council Member Oliverio dated June 6, 2007.

Motion: Council Member Oliverio moved approval of his memorandum dated June 6, 2007, directing Staff to implement a restroom and “dog run” in Phase 1 of the 2.2 acre Del Monte park project when sufficient funds are made available for Phase 1 and that Staff immediately adopt and include the concept for a Del Monte Park restroom and “dog run” with the outreach materials and communications with the community, residents and all other interested parties. Council Member Williams seconded the motion.

4.3 (Cont'd.)

Council Member Oliverio requested that Staff return during the Fall Cleanup process with an appropriation action to establish a reserve towards the development of the Del Monte park site. Council Member Williams accepted the amendment.

Public Comments: Speaking in support to Council Member Oliverio's recommendations were Brian Ward, Michael LaRocca, Ken Henning, Helen Chapman, Parks and Recreation Committee, Barbara Coleman, Lesley Jons, Ed Hodges and Bob Walker, Lincoln Hound Society

Action: On a call for the question, the motion carried unanimously and the recommendations were approved as follows: with Staff directed to: (1) Implement a restroom and "dog run" in Phase 1 of the 2.2 acre Del Monte park project when sufficient funds are made available for Phase 1 and that Staff immediately adopt and include the concept for a Del Monte Park restroom and "dog run" with the outreach materials and communications with the community, residents and all other interested parties. (2) Return during the Fall Cleanup process with an appropriation action to establish a reserve towards the development of the Del Monte park site. (11-0.)

PUBLIC HEARINGS ON CONSENT CALENDAR

Upon motion by Vice Mayor Cortese, seconded by Council Member Williams, and carried unanimously, the Public Hearings on Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

- 11.1 (a) Consideration of an ordinance rezoning the real property located on the southeast corner of East Hedding Street and North 17th Street (890 North 17th Street) from the R-2 Two-Family Residence District to the R-2(PD) Planned Development Zoning District to allow 2 single family detached residences and 1 duplex that currently exist on the project site to facilitate future subdivision. No new construction is proposed (Louis Bini, owner). SNI: 13th Street. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
PDC07-004 – District 3
(Continued from 6/19/07 – Item 11.3)**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC07-004, dated June 11, 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated June 28, 2007, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on June 1, 2007, submitted by the City Clerk.

11.1 (a) (Cont'd.)

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28094](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of East Hedding Street and North 17th Street (890 North 17th Street) to R-2(PD) Planned Development Zoning District”, was passed for publication. (11-0.)

- (b) Consideration of an ordinance rezoning the real property located on the northwest corner of Santa Clara Street and North 24th Street (1135 East Santa Clara Street) from the CG – Commercial General Zoning District to the CP – Commercial Pedestrian Zoning District to allow commercial uses on a 0.38 gross acre site (Corpuz Deanna L Et Al, Owner; Sullivan Santos, Developer). SNI: Five Wounds/Brookwood Terrace. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C07-044 – District 3**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-044, dated July 23, 2007, recommending approval on the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on August 5, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28095](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Northwest Corner of East Santa Clara Street and North 24th Street (1135 East Santa Clara Street) to CP Commercial Pedestrian Zoning District”, was passed for publication. (11-0.)

- (c) Consideration of an ordinance zoning the real property located at/on the southeast corner of North First Street and Holger Way from the IP Industrial Park Zoning District to the CG Commercial General Zoning District to allow commercial uses on a 9.8 gross acres site (Palm Inc, Owner). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
C07-026 – District 4**

11.1 (c) (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-026, dated July 11, 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated July 26, 2007, transmitting the Planning Commission recommendation of approval. (3) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated August 3, 2007, transmitting a revised location map. (4) Proof of Publication of Notice of Public Hearing, executed on July 6, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28096](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Southeast Corner of North First Street and Holger Way to the CG Commercial General Zoning District”, was passed for publication. (11-0.)

- (d) Consideration of an ordinance rezoning the real property located on the west side of Fortran Drive, approximately 850 feet southerly of Nortech Parkway (4415 Fortran Drive) from A(PD) Planned Development Zoning District to IP Industrial Park Zoning District to allow industrial park uses in a vacant building on a 4.4 gross acre site (Shia Association of Bay Area Inc, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
C07-028 – District 4

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-028, dated July 27, 2007, recommending approval on the subject rezoning. (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated August 3, 2007, transmitting supporting documentation. (3) Proof of Publication of Notice of Public Hearing, executed on August 3, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. Akher Kaznii and Sajjad Mir described the proposed uses of the property and spoke in support of the Staff recommendations. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Chu, seconded by Council Member Pyle and carried unanimously, the recommendation of the Planning Director was approved, [Ordinance No. 28097](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the West Side of Fortran Drive, Approximately 850 Feet Southerly of Nortech Parkway (4415 Fortran Drive) to IP Industrial Park Zoning District”, was passed for publication. (11-0.)

- 11.1 (e) **Consideration of an ordinance rezoning a 1.37 acre portion of an 8.53 gross acre site of the real property located at the westerly of the Guadalupe River, at the southern terminus of Seaboard Avenue (2500 Seaboard Ave) from A – Agricultural to HI Heavy Industrial Zoning District. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1).
C07-034 – District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-034, dated July 11, 2007, recommending approval on the subject rezoning. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated July 26, 2007, transmitting the Planning Commission recommendation of approval. (3) Proof of Publication of Notice of Public Hearing, executed on July 6, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 28098](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Westerly Side of the Guadalupe River, at the Southern Terminus of Seaboard Avenue (2500 Seaboard Avenue) to HI Heavy Industrial Zoning District”, was passed for publication. (11-0.)

- (f) **Consideration of an ordinance rezoning the real property located on the south side of Alum Rock Avenue, approximately 160 feet westerly of McCreery Avenue (1866 and 1870 Alum Rock Avenue: APN: 481-18-012) from the CG – Commercial General Zoning District to the CP – Commercial Pedestrian District to allow commercial uses on a 0.20 gross acre site (Manuel Matos, Owner/ Developer). SNI: Mayfair. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C07-038 – District 5**

Action: Continued to August 28, 2007 per Council District 5.

- (g) **Consideration of an ordinance rezoning the real property located on the north side of Story Road, approximately 200 feet easterly of South King Road (1705 Story Road) from the CN – Commercial Neighborhood Zoning District to the CP – Commercial Pedestrian Zoning District to allow commercial uses on a 0.41 gross acre site (Disco Bay LLC Et Al, Owner). SNI: East Valley/680 Communities. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C07-051 – District 5**

11.1 (g) (Cont'd.)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-051, dated July 23, 2007, recommending approval on the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on August 3, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The recommendation of the Planning Director was approved, and [Ordinance No. 28099](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Story Road, Approximately 200 Feet Easterly of South King Road (1705 Story Road) to CP Commercial Pedestrian Zoning District”, was passed for publication. (11-0.)

- (h) Consideration of an ordinance rezoning the real property located on the east side of North Bascom Avenue approximately 250 feet north of Olive Avenue (166 North Bascom Avenue) from Unincorporated County to the CG – Commercial General Zoning District to allow commercial uses on a 0.13 gross acre site (Tessa Properties, LLC Rick Dunham, Owner). SNI: Burbank/Del Monte. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**
C07-036 – District 6

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C07-036, dated July 23, 2007, recommending approval on the subject rezoning. (2) Proof of Publication of Notice of Public Hearing, executed on August 3, 2007, submitted by the City Clerk.

Public Comment: Mayor Reed opened the public hearing. There was no testimony from the floor. Mayor Reed closed the public hearing.

Action: The recommendation of the Planning Director was approved, and [Ordinance No. 28100](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of North Bascom Avenue Approximately 250 Feet North of Olive Avenue (166 North Bascom Avenue) to CG Commercial General Zoning District”, was passed for publication. (11-0.)

END OF PUBLIC HEARINGS ON CONSENT CALENDAR

PUBLIC HEARINGS

- 11.2 Consideration of a resolution designating as a Conservation Area the area generally bounded on the north by Interstate 280, on the east generally by the rear property lines of the lots on the east side of South Third Street, on the west by the alley between South First and Second Streets, and on the south by Martha Street (Various Owners/City of San José, Applicant). SNI: Spartan Keyes. CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-0).**

CA07-001 – District 3

(Continued from 6/5/07 – Item 11.5)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. CA07-001, dated August 1, 2007. (2) Memorandum from Planning Commission Secretary Joseph Horwedel, dated May 17, 2007, transmitting the Planning Commission recommendation of approval. (3) Supplemental memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated July 31, 2007, stating that prior to the meeting Staff received questions and concerns from property owners and at the request of Council Member Liccardo, the hearing was deferred to August 14, 2007 to allow Staff time to meet with the affected property owners and address their concerns. (4) Proof of Publication of Notice of Public Hearing, executed on April 20, 2007, submitted by the City Clerk.

Motion: Council Member Liccardo moved approval of the Staff recommendations with the amendment with Staff directed to remove non contributing structures that are currently in the conservation area: Parcels APN472-17-094, APN472-17-095 and APN472-17-034. Council Member Nguyen seconded the motion.

Mayor Reed opened the public hearing.

Public Comment: Aurelia Sanchez and Sandra Lamborg spoke in support of the Staff recommendations. Mayor Reed closed the public hearing.

Action: On a call for the question, the motion carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, [Resolution No. 73955](#), entitled: “A Resolution of the Council of the City of San José Designating as a Conservation Area, Pursuant to the Provisions of Chapter 13.48 of Title 13 of the San José Municipal Code, the Martha Gardens Conservation Area, an Area Generally Bounded on the North by the Rear Property Lines of the Lots on the East Side of South Third Street, on the West by the Alley between South First and Second Streets and on the South by Martha Street and with Identifiable Attributes Embodied by (1) Architecture, Urban Design, Development Patterns, Setting or Geography and (2) History”, was adopted, as amended, with Staff directed to remove non contributing structures that are currently in the conservation area: Parcels APN472-17-094, APN472-17-095 and APN472-17-034. (11-0.)

**11.7 Consideration of an ordinance rezoning the real property located on the east side of Radio Avenue, approximately 160 feet north of Lincoln Court (2102 Radio Avenue) from the R-M Multiple Residence Zoning District to the A(PD) Planned Development Zoning District to allow one single-family detached residence and up to 13 single-family attached residences on a 0.74 gross acre site (Willow Village Square, LLC, Paul Majoulet, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1)
PDC05-122 - District 6**

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti outlined the proposed project.

Mayor Reed opened the public hearing.

David Dolter, representing the Applicant Willow Village Square LLC, outlined other alternatives in lieu of the Staff recommendations and spoke in support Staff's original recommendation.

Public Comment: Adjacent property owners Henry and Sarah Sager objected to the project proposal and asked that they be provided with the ground rules before the property is developed. Mayor Reed closed the public hearing.

Assistant Director Prevetti responded to Council questions and discussion followed.

Council Member Constant commented on the Planning process, stated that the public needs to know what the guidelines are, and voiced objections to the development.

Assistant Director Prevetti commented that the Department would prefer a slightly reduced density of one unit. Council Member Oliverio responded that he wanted to provide a suitable infill. Assistant Director Prevetti offered to work with the applicant and return to Council within two weeks.

Action: Upon motion by Council Member Oliverio, seconded by Council Member Liccardo, and carried unanimously, Item 11.7 was continued to August 28, 2007 with Staff directed to work with the Applicant. (11-0.)

- 11.3 Consideration of an ordinance rezoning the real property located on the southeast corner of Zanker Road and River Oaks Drive (3300 Zanker Road) from (IP) Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 1,900 single-family attached residences and 31,360 square feet for retail commercial, leasing office, and clubhouse uses on a 38.25 gross acre site (Irvine Apartment Communities, property owner and developer). CEQA: Resolution No. 72768 and addendum thereto. Director of Planning, Building and Code Enforcement recommends approval of the proposed zoning and Planning Commission recommended that the City Council defer consideration of the proposed project until the completion of a Master Plan for the North San José area (5-1-1)**

PDC06-038 – District 4

(Continued from 6/5/07 – Item 11.6 and 6/19/07 – Item 11.2)

Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti, Chief Development Officer Paul Krutko and Deputy Director Redevelopment Agency John Weis summarized the Vision North San José and responded to Council questions.

Mayor Reed opened the public hearing.

Rick Lamprecht, representing The Irvine Company, spoke in support of the Staff recommendations and responded to Council questions.

Discussion followed.

Public Comment: Speaking in opposition to the proposed development were Mike Bertram, Jean Marlowe, Jim Foran, River Oaks Neighborhood Association, Marcelle Kube, Christian Crawford, Leigh Cagan, Jurgen Failenschmid, Ernie Dossa, Roger Barnes and Rod Adams, Santa Clara Unified School District, Abhay Bhorkar, Vidal Christopher and William Garrett.

Erik Kaeding agreed with the Planning Commission recommendation to defer this item. Bena Chang, Silicon Valley Leadership Group, spoke in support to the Staff recommendations.

Extensive Council discussion ensued.

Motion: Council Member Constant moved approval of the Staff recommendations. Council Member Oliverio seconded the motion.

Council Members Pyle and Nguyen expressed concern about the impact on the schools, and requested that this item return to the Task Force, and that Staff return with a progress report after six months.

Substitute Motion: Council Member Chu moved to continue the application for two weeks. Council Member Chirco seconded the motion.

11.3 (Cont'd.)

Vice Mayor Cortese expressed support and requested to amend the motion to request that Staff return with an aggressive work plan for Council approval. Council Members Chu and Chirco accepted the amendment.

Action: On a call for the question, the substitution motion carried, Item 11.3 was continued to August 28, 2007, with Staff directed to return with an aggressive work plan for Council approval. (7-4. Noes: Constant, Oliverio, Pyle; Reed.)

11.4 Consideration of an ordinance rezoning the real property located on the southeast corner of Highway 280 and South 11th Street (868 South 11th Street) from R-2 Two-Family Residence Zoning District to R-M Multiple Residence District on a 0.2 gross acre site (Margarita O. Delgado et al, Tamara Alabastro, Owners; Bruce Williams, Developer). SNI: Spartan/Keyes. CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-2-1).

C07-005 – District 3

[Continued from 6/19/07 – Item 11.1(b)]

Mayor Reed opened the public hearing.

Public Comments: Speaking in opposition to the rezoning were Sandra Lamboy, Aurelia Sanchez and Diego Barragan. Mayor Reed closed the public hearing.

Action: Upon motion by Council Member Liccardo, seconded by Council Member Liccardo and carried unanimously, Item 11. 4 was continued two months. (11-0.)

11.5 Consideration of an ordinance rezoning the real property located on both sides of Berryessa Road, between the Union Pacific Railroad Right of Way to the east and the Coyote Creek to the west, north of Mabury Road (1590 Berryessa Road) from A(PD) Planned Development Zoning District on 101-acres, IP-Industrial Park Zoning District on 19-acres and A-Agriculture Zoning District on .76-acres to A(PD) Planned Development Zoning District to allow up to 2,818 residential units and up to 365,622 square feet of commercial/industrial uses on an approximately 120 gross acre site (The Flea Market Inc, Owner/Developer). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (4-2-1)

PDC03-108 – District 4

(Continued from 6/19/07 – Item 11.4)

11.5 (Cont'd.)

Documents Filed: (1) Memorandum from Mayor Reed and Council Member Chu, dated August 10, 2007, recommending approval of the Flea Market Rezoning with conditions of approval as described in "Action". (2) Memorandum from Director of Planning, Building and Code Enforcement Joseph Horwedel, dated May 29, 2007, transmitting the Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC03-108, dated May 23, 2007, recommending approval on the subject rezoning. (3) Memorandum from Planning Commission Secretary Joseph Horwedel, dated July 23, 2007, transmitting the Planning Commission recommendation of approval. (4) Proof of Publication of Notice of Public Hearing, executed on May 18, 2007, submitted by the City Clerk. (5) Four letters from members of the public dated August 9-14, 2007, regarding the proposed development.

Deputy Director of Transportation Hans Larsen, Assistant Director of Planning, Building and Code Enforcement Laurel Prevetti and Deputy Director Public Works David Sykes outlined the BART Extension to Milpitas, San José and Santa Clara.

Mayor Reed opened the public hearing.

Erik Schoennauer, representing the Applicant, spoke to the merits of the project.

Public Comment: Speaking in support to the Staff recommendations were Bena Chang, Santa Clara Housing Action Coalition, Anil Babbar, Santa Clara County Association of Realtors, Carl Guardino, Silicon Valley Leadership Group, Mark Roest, San José State University Urban Planning Department, Brenda Hayes, Tom Fink, Rudy Rodriguez, Marilyn Roaf, Housing Action Committee, Chris Block, Adam Montgomery, Elizabeth Sanborn, Bridge Housing, Jody Hansen, Pat Dando, San José Silicon Valley Chamber of Commerce, Jesus Banda, Gina Kim, Manual Pineda, Manish Patel, Hilda Munoz, Walter Nieto, Bruce Trinh, The Berryessa Flea Market Merchant Association, Gabriel Pineda, Rafael Ramos, Jonathan Quesada, Christine Phan, Noren Caliva, Christopher Lepe, Marian Duran, Adam Welch, Citizens for Environmental and Economic Justice, Kerri Hamiton, Berryessa Citizens Advisory Council, Emy Mendoza, James Duran, Monica Amador, Hispanic Chamber of Commerce,

ShauJin Chang, Diego Andrade, Maria Lara, Erica Lara and William Garbett objected to the Staff recommendations.

Erik Schoennauer presented a brief rebuttal. Mayor Reed closed the public hearing.

Motion: Council Member Chu moved approval of the Staff recommendations and the memorandum he cosigned with Mayor Reed, dated August 10, 2007. Vice Mayor Cortese seconded the motion.

11.5 (Cont'd.)

Council Member Liccardo requested to amend the motion by requesting to mandate that the affordable housing requirements in place at the time of the approval of the site development permit apply to this development at this site. The amendment was accepted by Council Member Chu and Vice Mayor Cortese. (7-4. Noes: Constant, Oliverio, Williams; Reed.)

Council Member Campos requested to add to the motion with regard to the future of the vendors at the Flea Market, refer the relocation strategy to the Community and Economic Development Committee. The amendment was accepted by Council Member Chu and Vice Mayor Cortese. (10-1. Noes: Constant.

Action: On a call for the question the motion carried, the recommendation of the Planning Commission and the Planning Director was approved, [Ordinance No. 28101](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated in an Area on Both Sides of Berryessa Road, Between the Union Pacific Railroad Right of Way to the East and the Coyote Creek to the West, North of Mabury Road (1590 Berryessa Road) to A(PD) Planned Development Zoning District", was passed for publication and [CEQA Resolution No. 73956](#), entitled: "A Resolution of the Council of the City of San José Making Certain Findings Concerning Significant Effects, Mitigation Measures, Adopting a Mitigation Monitoring and Reporting Program, Making Findings Concerning Alternatives and Adopting a Statement of Overriding Considerations for the Flea Market Planned Development Rezoning Project, For Which an Environmental Impact Report Has Been Prepared in Accordance with the California Environmental Quality Act of 1970, as Amended", was adopted; and the memorandum from Mayor Reed and Council Member Chu, dated August 10, 2007, was approved with the following conditions: (1) The Flea Market is to continue to operate for another 2-1/2 years from approval of this project. (2) The applicant is advised to continue to pursue an appropriate site for relocation of the Flea Market, including working with City Staff regarding sites and transition services for vendors. (3) At least 80% of the net residential acres north of Berryessa Road will be required to be under construction prior to construction of any residential units south of Berryessa Road. (4) The Director of Planning, Building and Code Enforcement should include conditions to ensure the development of single family homes in the area north of Berryessa Road at the earliest phases of the proposed development. (5) The project will be fully responsible for funding and constructing all of its traffic mitigations, including improvements to Highway 101/Oakland Road Interchange and contributing an amount not to exceed \$150,000 for improvements associated with Commercial Street between Berryessa Road and Oakland Road. (6) The school site shall not be located directly adjacent to or across from the proposed commercial/retail site. (7) The applicant shall provide regular updates to the City and

11.5 (Cont'd.)

vendors about the status of the proposed development on the Flea Market site. (8) The applicant is encouraged to pursue the development of affordable housing. (9) The applicant is required to use Leadership in Energy and Environmental Design (LEED) practices to achieve credits sufficient for a LEED Silver certification. (10) The applicant is required to use recycled water for public landscaping purposes. (11) With regard to the future of the vendors at the Flea Market, refer the relocation strategy to the Community and Economic Development Committee. Noes: Constant. (12) Mandate that the affordable housing requirements in place at the time of the approval of the site development permit apply to this development at this site. (7-4. Noes: Constant, Oliverio, Williams; Reed.)

11.6 **Consideration of an ordinance rezoning the real property located on the southwest corner of North 1st Street and Century Center (1733 N 1st Street) from CO(PD) Commercial Office Planned Development, LI light Industrial, and CG Commercial General Zoning district to A(PD) Planned Development Zoning District to allow up to 460 single-family attached residences and 20,000 square feet for retail commercial uses on a 2.4 gross acres site (James Schmidt Et Al, Owner). CEQA: Resolution No. 72768 and Addenda thereto. PDC05-114 - District 3**

Action: Continued to August 28, 2007 per Administration.

ADJOURNMENT

The Council of the City of San José adjourned at 12:57 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/8-14-07MIN

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